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SPECIFIC PERFORMANCE—ENFORCEMENT—CONTRACTS AGAINST PUBLIC POLICY.—The deed granting defendant a right of way over certain lands, contained a covenant by defendant to stop its trains at a road crossing on said lands. The deed contained no prohibition against stopping the trains at other places. Defendant failed to stop the trains as covenanted and plaintiff sought a decree requiring the defendant to perform its covenant. *Held,* the covenant was void as being against public policy. *Ford* v. *Oregon Electric Ry. Co.* (Ore. 1911) 117 Pac. 809.

The decisions are quite evenly divided as to covenants requiring railroads to stop their trains at certain points, and fall into two classes: (9 CYC. 499) those holding that such agreements are valid provided they are fairly made and contain no prohibition as to stopping trains at other points, and those holding that public policy denies to railroads the right to enter into contracts providing for stations at certain points without regard to the question of the needs of the people and public convenience. 9 CYC. 498, 499. The following cases and authorities hold such contracts valid if they contain no restriction as to stopping trains at other points: 33 CYC. 142 n. 17; *Lyman* v. *Suburban R. Co.,* 190 Ill. 320, 60 N. E. 515, 52 L. R. A. 645; *Griswold* v. *Minn., etc. Ry. Co.,* 12 N. D. 435, 97 N. W. 538, 102 Am. St. Rep. 572; *Louisville R. Co.* v. *Sumner,* 106 Ind. 55, 5 N. E. 404, 55 Am. Rep. 719; *Harris* v. *Roberts,* 12 Neb. 631, 12 N. W. 89, 41 Am. Rep. 779, *Texas, etc. R. Co.* v. *Robards,* 60 Tex. 545, 48 Am. Rep. 268. Holding such contracts void regardless of restriction as to stopping at other points are: 9 CYC. 499 and cases cited; *Enid, etc. Co.* v. *Lile,* 15 Okl. 317, 82 Pac. 810; *Holladay* v. *Patterson,* 5 Ore. 177; *Cook* v. *Sherman* (Ia.) 20 Fed. 167; *Florida, etc. R. Co.* v. *State,* 31 Fla. 482, 13 South. 103; *Pacific R. Co.* v *.Seely,* 45 Mo. 212, 100 Am. Dec. 369; *Fuller* v. *Dame,* 18 Pick. 472. ELLIOTT, RAILROADS, says in effect that it cannot be justly said that every contract for the building of a station at a particular place is opposed to the interests of the public, that such contracts should be carefully scrutinized, but not held illegal *per se,* for they may not be opposed to the interests of the public. Sec. 387, p. 530. As stated, there is no covenant in the principal case against the stopping of trains at other stations. The court, however, adopted the stricter rule, saying, "A railroad company, being a public service corporation, owes its first and highest duty to the public, and any agreement having a tendency to interfere, or which may interfere, with that duty, is against public policy and should not be enforced in equity," that stopping at the point in question would interfere to a certain extent with the stopping at other places and with the service to the public. Whether or not the covenant prohibits the stopping of trains at any other point was held to be a matter of difference in degree only. This reasoning seems sound. A covenant binding a railroad to stop its trains at a certain point, regardless of whether the traffic warrants the same or not, may well be held against public interests. If one such covenant is good where shall a limit be placed as to the number of others of like nature?

For a discussion of this covenant as one running with the land, see *ante,* p. 137.